



## ***PREFACE***

This document is an Environmental Impact Report (EIR), prepared on behalf of the City of Milpitas (the City) in accordance with the statutes and guidelines of the California Environmental Quality Act (CEQA), commencing with Section 2100 of the Public Resources Code, as well as the City's requirements. The purpose of this DEIR is to evaluate the potential environmental consequences of the construction and operation of the Elmwood Residential and Commercial Development Project (the Project) on an approximately 60 acre site (Project Site).

The Project Site is comprised of surplus lands of the County of Santa Clara that surround the Elmwood Correctional Facility, located east of Interstate 880 (I-880), south of Sylvia Avenue, on both sides of Abel Street, and north of Great Mall Parkway in the City of Milpitas.

The proposed Project consists of 683 residential units, approximately 180,000 square feet of auto sales uses, approximately 7 acres in public park area (including trails) and another 8.4 acres of open space, consisting of landscaping and private community recreation facilities on an approximately 60 acre site. Development of the Project will require an amendment to the Milpitas General Plan, Midtown Specific Plan, and Zoning Map, Tentative Map to subdivide the larger 126-gross acre site (which includes the 66.92-acre Elmwood Correctional Facility property and the 60 acre Project Site) and to subdivide 60 acre Project Site into development parcels a Planned Unit Development (PUD), Site and Architectural Approval, and a Use Permit for various exceptions to the Project, including but not limited to setbacks, parking, and private open space.

Pursuant to Section 15161 of the CEQA Guidelines, this DEIR is a "project EIR", which focuses primarily on the changes in the environment that would result from the development project. Specifically, the EIR focuses on those environmental factors that would be potentially affected by the Project, including: land use; traffic and circulation; air quality; noise; biological resources; geology and seismicity; flooding, drainage, and water quality; cultural resources; hazardous materials; aesthetics; utilities; and public services.



## **1.0 SUMMARY**

Following is a summary of the Environmental Impact Report (the “EIR”) for the Elmwood Residential and Commercial Development Project. Copies of plans and documents related to the Project are available for review at the City of Milpitas Planning Division.

The character of the proposed Project, its identified significant environmental impacts, mitigation measures, and potential alternatives are summarized in this Section. The remaining sections of the EIR address the details of the issues outlined in this Section.

### **1.1 SUMMARY PROJECT DESCRIPTION**

The Project proposes to develop 60 acres as follows:

#### Residential Component:

- 315 podium condos east of Abel Street, 110 of which will be available for-sale to qualified moderate-income households;
- 165 single family detached homes north of the Elmwood Correctional Facility;
- 203 townhomes north of the Elmwood Correctional Facility.

#### Commercial Component

- Approximately three auto dealerships, with an estimated 180,000 square feet of auto mall building area

#### Open Space Component

- Nearly seven acres of public park, including the Hetch Hetchy park/trail improvements, Elmwood Park and West Abel Street Public Park
- Two private park/recreation areas, including one within the proposed single family and one within the proposed podium condominiums.

To accomplish this development, the Project proposes amendments to the Milpitas General Plan, Midtown Specific Plan, and Zoning Map; a Planned Unit Development (PUD),



and commercial development and the related 60.0 acres site. The Elmwood Correctional Facility will be discussed only as relevant to a particular analysis.

## 1.2 SUMMARY OF IMPACTS AND MITIGATION MEASURES

The following table summarizes the impacts and mitigation measures discussed in detail in Section 4.0. Potential environmental impacts of the Project are summarized in the left column of the table. The mitigation measures necessary for alleviating the impacts due to implementation of the Project are summarized in the second column of the table. The third column summarizes the status of the impacts after the implementation of the mitigation measures.

POTENTIAL SIGNIFICANT IMPACTS	MITIGATION MEASURES	STATUS AFTER MITIGATION
<b>LAND USE (See Section 5.1)</b>		
The Project proposes to develop surplus County land, consistent with policies of the Milpitas Midtown Specific Plan. It will be consistent with the general mix, character and intensity of land uses anticipated in the Specific Plan and City General Plan. The Project is not expected to conflict with applicable land use plans or policies, convert Prime Farmland to non-agricultural uses, or divide an established community.	The Project does not result in adverse impacts relative to land use or planning. No mitigation measures are necessary.	No significant unavoidable adverse impacts are expected relative to land use.
<b>TRAFFIC AND CIRCULATION (See Section 5.2)</b>		
The Project would result in significant adverse impacts to eight roadway intersections, two freeway segments, and cumulative impacts to one roadway segment.	<p>TR-1: The intersection of South Main Street and Carlo Way is currently unsignalized. Prior to issuance of any building permit for the Project, the developer shall pay for a signal warrant analysis at this location. If the City Engineer determines that a signal is warranted then the developer shall pay a "fair share" cost towards the construction of the signal. The "fair share" cost is to be determined by the City based on the magnitude of the project impacts.</p> <p>TR-2: The intersection of South Main Street and Corning Avenue is currently unsignalized.. Prior to issuance of any building permit for the Project, the developer pay for a signal warrant analysis at this location. If the City Engineer determines that a signal is warranted then the developer shall pay a "fair share" cost towards the construction of the signal. The "fair share" cost is to be determined by the City based on the magnitude of the project impacts.</p> <p>TR- 3. The city has set up a traffic</p>	<p>Impacts at two of the intersections, South Main Street and Carlo Street and South Main Street and Corning Avenue, will be less than significant following mitigation. Impacts to the 6 remaining intersections and 2 freeway segments have not been fully mitigated. These impacts would be significant and unavoidable.</p> <p>The cumulative impact at Tasman Drive, McCarthy to I-880, westbound, AM, would be significant and unavoidable.</p>

POTENTIAL SIGNIFICANT IMPACTS	MITIGATION MEASURES	STATUS AFTER MITIGATION
	<p>mitigation fee within the Midtown Specific Plan area to fund improvements that are not feasible for individual projects. Prior to issuance of any building permit for the Project, the developer shall pay to the City its "fair share" of these fees. The "fair share" cost is to be determined by the City based on the magnitude of the project impacts.</p> <p>TR-4. The City of Milpitas and County of Santa Clara currently have plans to widen Montague Expressway between I-880 and I-680 to three mixed flow lanes and one 24-hour HOV lane in each direction. The segment between Great Mall Parkway and I-680 has recently been fully funded by the City of Milpitas and the County of Santa Clara. However, other portions of this improvement remain unfunded. Prior to issuance of any building permit for the Project, the developer shall pay to the City a "fair share" of the costs of widening Montague Expressway. The "fair share" cost is to be determined by the City based on the magnitude of the project impacts.</p> <p>TR-5. The City of Milpitas is currently planning traffic improvements at the intersection of Calaveras Boulevard/Abel Street. Improvements to this intersection would decrease traffic delays on Calaveras Boulevard, which is a key east/west commute corridor in the city. Prior to issuance of any building permit for the Project, the developer shall pay to the City a "fair share" of the costs of these improvements. The "fair share" cost is to be determined by the City based on the magnitude of the project impacts.</p> <p>TR-6: The City of Milpitas is currently planning signal timing improvements on Great Mall Parkway. Improvements to this corridor would decrease traffic delays on Great Mall Parkway, which is a key east/west commute corridor in the city. Prior to issuance of any building permit for the Project, the developer shall pay to the City a "fair share" of the costs of these improvements. The "fair share" cost is to be determined by the City based on the magnitude of the project impacts.</p> <p>TR-7. Elmwood Road would form the north leg of the Great Mall Parkway/I-880 Ramps intersection. As it is currently configured, the north approach of this</p>	

POTENTIAL SIGNIFICANT IMPACTS	MITIGATION MEASURES	STATUS AFTER MITIGATION
	<p>intersection has one right-turn lane and one shared left-through lane. Improvements to the north leg of the intersection where project access occurs would improve intersection operations. Prior to issuance of any building permit for the Project, the developer shall implement the following geometry at the north leg:</p> <ul style="list-style-type: none"> <li>• North Approach: One right-turn lane, one shared through-left turn lane, and one left-turn lane.</li> <li>• North Receiving Lane: One northbound lane.</li> </ul>	
AIR QUALITY (See Section 5.3)		
<p>The Project is expected to result in significant adverse air quality impacts relative to construction dust and cumulative impacts based on regional air pollutant levels.</p>	<p><b>Construction Impacts</b></p> <p>AQ-1: The developer shall implement the following basic control measures at all Project construction sites:</p> <ul style="list-style-type: none"> <li>▪ Water all active construction areas</li> <li>▪ Cover all trucks hauling soil, sand, and other loose materials, or require all trucks to maintain at least two feet of freeboard</li> <li>▪ Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking and staging areas</li> <li>▪ Sweep daily</li> <li>▪ Hydroseed or apply non-toxic soil stabilizers to inactive construction areas</li> <li>▪ Enclose, water or apply non-toxic soil binders to exposed stockpiles</li> <li>▪ Limit traffic speeds on unpaved roads to 15 miles per hour</li> <li>▪ Install sandbags or other erosion control measures to prevent silt runoff to public roadways</li> <li>▪ Suspend excavation and grading activity whenever the wind is so high that it results in visible dust plumes despite control efforts.</li> </ul> <p><b>Regional Operational Impacts</b></p> <p>AQ-1: The developer shall implement the following measures, which have been identified by BAAQMD, to reduce vehicle emissions:</p> <p>Residential Development Measures:</p> <ul style="list-style-type: none"> <li>• Provide bicycle lanes, sidewalks and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas.</li> </ul>	<p>Air quality impacts related to construction dust and regional air quality impacts related to vehicular emissions will remain significant and unavoidable.</p>



POTENTIAL SIGNIFICANT IMPACTS	MITIGATION MEASURES	STATUS AFTER MITIGATION
	post a telephone number for the disturbance coordinator at the construction site.	
BIOLOGICAL RESOURCES (See Section 5.5)		
<p>Project development could result in potentially significant adverse impacts relative to the following species/resources:</p> <ul style="list-style-type: none"> <li>Special status plants: alkali milk-vetch, Contra Costa goldfields, Fragrant Fritillary, and Hairless Popcorn-flower due to disturbance or removal during construction activities;</li> <li>Special status fish species, from degradation of water quality due to discharge of soils and other materials into Penitencia Creek during construction.</li> <li>Nesting raptor and migratory birds due to tree removal;</li> <li>Burrowing owls due to site disturbance during construction activities <i>and permanent loss of owl habitat</i>;</li> <li>Degradation of Penitencia Creek associated with construction of two outfall structures, bank stabilization and dewatering structures; and conflicts with RWQCB provisions regarding disturbance of the detention/settling basin and isolated wetland.</li> </ul>	<p><b>Special status Plant Species</b></p> <p><u>BIO-1:</u> Appropriately timed surveys shall be conducted by a qualified botanist according to protocols acceptable to USFWS and CDFG to determine the presence/absence of the four special status plant species (alkali milk-vetch, Contra Costa goldfields, Fragrant Fritillary, and Hairless Popcorn-flower). Surveys to detect the presence of special status plant species shall be conducted during the appropriate blooming period for each species. While only marginally suitable conditions exist for these species, surveys shall be conducted to ensure that they are absent from the site. If these surveys do not detect the presence of these or any other special status plant species, no further mitigation measures will be necessary. These plants can only be detected in the absence of disking, and any such survey shall be done prior to site disturbance.</p> <p>If special status plant species are detected, CDFG shall be contacted and appropriate protocols for relocating these plants shall be implemented. If identified, a rare plant mitigation and monitoring plan shall be developed to provide for the long-term protection of special status plant species believed present, per the above mitigation measure. The mitigation and monitoring plan for the plant species present would be prepared and, after review and approval by the City of Milpitas, the plan shall be implemented. The plan shall have provisions for either preservation in place or salvage of plant materials. The plan shall provide for the long-term persistence of a sustainable population of that plant species in the designated preserve area on the development property or on a similarly dedicated and preserved area in the general vicinity of the development. The plan shall contain funding and functional assurances for the maintenance and monitoring of the plants along with performance standards. The plan shall be implemented either before or concurrently with ground disturbing activities on the development property.</p>	<p>Following mitigation, impacts would be less than significant.</p>

POTENTIAL SIGNIFICANT IMPACTS	MITIGATION MEASURES	STATUS AFTER MITIGATION
	<p>August 1, or as determined by CDFG on a case-by-case basis. Vegetation removal during the non-nesting season is recommended to ensure no nest establishment occurs in trees and shrubs scheduled for removal. If tree removal between February 15 and August 1 is required, a pre-construction survey shall be conducted no more than 30 days before the removal of any tree or shrub to identify the presence, or absence of raptor nests. If no nests are identified in trees to be removed during the pre-construction survey, no further mitigation is necessary. If nests are identified, CDFG shall be contacted and appropriate protocols for buffers initiated. If active nests are found within the trees in the development property, i.e. within eucalyptus, elm, redwood, or shrubs, CDFG requires a buffer area of 150 feet around the nest tree until juvenile raptors have fledged and are no longer dependant upon the tree for survival. If shrub vegetation removal is to occur between February 15 and August 1, a pre-construction survey for nesting migratory songbirds will be necessary to ensure that trees and shrubs are free of nesting birds. If songbird nests are found, a disturbance-free buffer shall be established around the nest tree or shrub and the nest shall be monitored until young birds have fledged. If this is not possible, the nest shall be monitored to determine when young birds are old enough to be taken from the nest and moved to an appropriate wildlife rehabilitation facility for hand-rearing.</p> <p><b>Burrowing Owls</b>  <u>BIO-4:</u> Prior to any discing for fire or weed control, a burrowing owl nesting/occupancy survey shall be completed on the development property. The existing burrowing owl surveys may be updated prior to demolition or construction activities. As established by the CDFG, burrowing owl surveys shall be conducted by walking suitable habitat on the entire property and (where possible) in areas within 150 meters (approximately 500 ft.) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project area which may be impacted by factors such as noise and vibration (heavy equipment, etc) during project construction. Pedestrian survey transects shall be spaced to allow for 100 percent visual coverage of the ground</p>	

POTENTIAL SIGNIFICANT IMPACTS	MITIGATION MEASURES	STATUS AFTER MITIGATION
	<p>surface. The distance between transect center lines shall be no more than 30 meters (approximately 100 ft.) And shall be reduced to account for differences in terrain, vegetation density, and ground surface visibility. If disking is to occur, all burrowing owl nests will be identified through the above survey process and a 250-foot radius established around the site where no disking will be conducted. Each burrowing owl nest site and associated escape burrows will be protected by the 250-foot buffer zone.</p> <p><u>BIO-5:</u> At such time as the MA is approved, mitigation actions shall be carried out prior to the burrowing owl breeding season. Generally, burrowing owls breed between February 1 and August 31. A passive relocation program would therefore be initiated between November 1 and January 31. The development property shall be resurveyed prior to initiating mitigation actions to ensure that burrowing owls have not occupied new sites within the Project boundaries in the interim period between the initial surveys and the initiation of passive relocation mitigation measures. At a minimum, the following measures shall be implemented to minimize impacts to owls. See California Department of Fish and Game mitigation approval letter dated December 2, 2003.</p> <p>(a) On-site passive relocation using one way doors shall be implemented to encourage owls to move from occupied burrows to alternate natural or artificial burrows that are beyond the project impact area. Relocation of owls shall only be implemented during the non-breeding season between November and January 31.</p> <p>(b) Because the project will result in the loss of all foraging habitat on the development property for burrowing owls, all of the owls on the development property shall be excluded by installing one-way doors in burrow entrances. One-way doors shall be left in place 48 hours to ensure that owls have left the burrow before excavation and back-filling of the burrow. Whenever possible, burrows shall be excavated using hand tools and back-filled to prevent reoccupation. Sections of flexible plastic pipe shall be inserted into the tunnels during excavation to maintain an escape</p>	



### 1.3 SUMMARY OF ALTERNATIVES

Alternatives to the Project are found in Section 7.0. In accordance with Section 15126.6 of the CEQA Guidelines, acceptable alternatives could feasibly attain most of the basic Project objectives but would avoid or substantially lessen potential significant effects of the Project. Discussion of alternatives should allow meaningful evaluation, analysis and comparison of the alternatives with the proposed Project. Among the factors that may be taken into account when assessing the feasibility of alternatives are site suitability, General Plan consistency and economic viability. (In CEQA analyses, economic viability is assumed to include both market feasibility and adequate financial returns).

This Project involves the reuse of surplus lands of the County of Santa Clara that surround the Elmwood Correctional Facility. KB Home has entered into an agreement with the County to remove the surplus land from the Correctional Facility site and develop it for mixed uses. KB Home is the applicant on the Project. KB Home and the County of Santa Clara, as the property owner, share the basic objective to develop the Project Site with community supporting and revenue generating land uses. Because the basic objective of the Project is development of the site, an alternative location scenario is not considered relevant, and is therefore not included in the alternatives analysis.

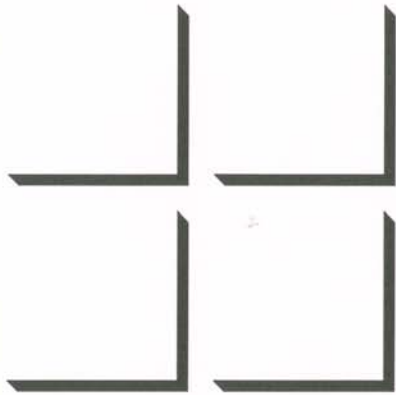
Consistent with CEQA Guidelines, two alternative to the Project are considered. These are:

#### 1. No-Project Alternative:

Under the No-Project Alternative, no new development would occur on the Project Site. It would remain surplus land and part of the Elmwood Correctional Facility site. With no development, impacts related to the site's development would not occur. However, existing hazards on site associated with flood control deficiencies and toxic substances would remain. The No-Project Alternative would not comply with Midtown Specific Plan policies regarding development of the site. Finally, the No-Project alternative would not achieve the basic Project objective to develop the County surplus lands with community supportive and revenue generating land uses. This Alternative would not be superior to the Project.

#### 2. Reduced Residential Density Alternative

Under the Reduced Residential Density Alternative, the entire 28.9 acre residential portion of the Project would be developed as single family attached dwellings with a medium-low density of 12 units per acre. This Alternative would result in approximately half as many residential units as the Project. By reducing the number of dwelling units roughly in half, the Reduced Density Alternative would result in about half the amount of residential traffic. This Alternative is expected to alleviate a significant and unavoidable impact associated with the Project (cumulative traffic increase on Tasman Drive). However, this Alternative would not meet the Midtown Specific Plan policies related to the provision of high density and affordable housing. As described below, the Reduced Density Alternative would be superior to the Project.



## **2.0 INTRODUCTION**

This Environmental Impact Report (EIR) examines the existing conditions and potential environmental impacts from development of the Elmwood Residential and Commercial Development Project to the Milpitas community and surrounding areas. Pursuant to Section 15161 of the State of California Environmental Quality Act Guidelines (“CEQA Guidelines”), this DEIR is a project-level EIR. As such, it focuses primarily on the changes in the environment that would result from development of the Project, including its construction and operation.

### **2.1 ENVIRONMENTAL IMPACT REPORT REQUIRED**

The Elmwood Residential and Commercial Development involves the following activities:

1. Development of 683 residential units;
2. Development of approximately 180,000 square feet of auto sales uses;
3. Development of approximately 7 acres in public park area and another 8.4 acres of open space[L5], consisting of common landscaping and private community recreation facilities;
4. Subdivision of a larger approximately 126-gross acre site (which includes the 60 acre Project Site and the 66.92-acre Elmwood Correctional Facility property) to facilitate development of the residential, commercial and open space components, plus subdivision of the residential parcel;
5. Amendment to the City of Milpitas General Plan and Midtown Specific Plan Land Use Maps;
6. Amendment to the City of Milpitas Zoning Map;
7. Planned Unit Development (PUD);
8. Site and Architectural Approval;
9. Use Permit;
10. Tree Removal Permit(s);



## 4.2 PROJECT COMPONENTS

The Project proposes amendments to the Milpitas General Plan, Midtown Specific Plan, and Zoning Map, a Planned Unit Development (PUD), Subdivision Maps, Site and Architectural Approval, and a Use Permit to cover multiple Project exceptions. The Project also includes subdivision of the entire approximately 126-gross acre site (including the 66.92-acre Elmwood Correctional Facility property); residential development proposed on approximately 28.9 acres of the site, comprised of 20.5 acres located north of the Elmwood Correctional Facility and 8.4-acres located east of Abel Street; and approximately 180,000 square feet of auto sales uses on the County's 23.5 acres fronting I-880.

Figure 5, *Proposed Project Site Plan*, depicts the planned arrangement of land uses on the site. Table 2, below, summarizes proposed Project land uses by acreage.

<b>Table 2</b> <b>Elmwood Residential and Commercial Development</b>		
<b>Land Use</b>	<b>Acres</b>	<b>Percent of Site</b>
<b>Residential Lots *</b>		
▪ Building Pads	<b>12.5</b>	<b>21%</b>
▪ Private Recreation Arease	<b>1.0</b>	<b>2%</b>
<b>Commercial Parcels</b>	<b>23.5</b>	<b>39%</b>
<b>Public Parks/Trails</b>	<b>7.0</b>	<b>12%</b>
<b>Common Usable Open Space</b>	<b>9.0</b>	<b>15%</b>
<b>Streets, Firelanes and Sidewalks</b>	<b>7.0</b>	<b>12%</b>
<b>TOTALS</b>	<b>60.0</b>	<b>100%</b>
* Note: Residential component, inclusive of building pads, private and common open space, streets and sidewalks, comprise approximately 28.9 acres, including 20.5 acres located north of the Elmwood Correctional Facility and 8.4-acres located[L10] east of Abel Street.		



## Residential Component

The residential component of the Project would comprise 28.9 acres, developed with up to 683 residential units. These units would be a mix of the following residential product types:

- 315 podium condos on approximately 8.5 acres east of Abel Street
- 165 single family detached homes on approximately 11.0 acres north of the Elmwood Correctional Facility
- 203 Townhomes on approximately 8.3 acres north of the Elmwood Correctional Facility

Podium-style condominiums would consist of four stories above parking. The proposed residential units range from approximately 880 square feet found in the podium condos to 2,600 square feet in size found in the proposed single family units. The height of the condominium structures will be about 60 feet (but no taller than 60 feet).

The Project will make 110 of the proposed for-sale units available to moderate-income households, in conformance with a Memorandum of Understanding between KB Home, the Milpitas Redevelopment Agency, the City of Milpitas, and the County of Santa Clara. Additionally, the Project applicant will assist in funding the construction of an off-site 98-unit affordable senior housing project, for which at least 57 rental units will be available to persons of very low income and 41 units will be available to persons of either low or very-low income.

## Commercial Component

Approximately 23.5 acres of the proposed Project Site is reserved for commercial uses. The commercial component is located along the site's western edge, between Highway 880 and the existing north-south entrance road to the Elmwood correctional facility. Although the ultimate configuration of parcels is currently unknown, the Project anticipates an auto mall in this location, consisting of approximately 3 auto dealerships. An estimated 180,000 square feet of auto mall building area would be developed to accommodate showrooms and auto repair facilities. Access would be provided from Elmwood's existing north-south and east-west access roads.

A portion of the 23.5 acre site lies within the Hetch Hetchy right-of-way. As noted above, uses along the right-of-way will be limited to parking. The County of Santa Clara, which will be responsible for overseeing the development of the commercial portion, plans to locate parking along the easement and plans to submit an encroachment permit application to permit the parking.

The commercial component also lies within the 100-year flood zone. Design of the proposed auto mall must allow for conveyance of flood waters from the Project's southern boundary to its northern boundary.

## Open Space Component

The Project includes both private and public open space and park elements. It proposes 7 acres of public park and trails, 1 acre of private usable open space, and 9 acres of common landscaped open space. (Reference Table 1, Elmwood Residential and Commercial Development Land Use Summary.) In total, the Project would provide 17 acres of open space area.

Of the 7 acres of public park, approximately 4.8 acres would be located along the Hetch Hetchy right-of-way. The balance of the public park acreage would be the proposed West Abel Street Public Park and the Elmwood Park. In addition to the public parks, two private park/recreation areas are proposed as part of the Project. These public and private park facilities are described below:

- Hetch Hetchy Parcel East of Abel Street Open Space: An area of approximately 1.8 acres, presently owned by the San Francisco Public Utilities Commission will be leased by the City of Milpitas, and improved for recreational use. It is envisioned that this area will be landscaped and a trail constructed to allow pedestrian and bicycle movement from Abel Street to Main Street. This area is proposed for public use. The proposed uses and types of landscaping material are subject to the review and approval of the City of Milpitas and the San Francisco Public Utilities Commission.
- Hetch Hetchy Parcel West of Abel Street Open Space: An area of approximately 3.0 acres, presently owned by the San Francisco Public Utilities Commission will be leased by the City of Milpitas, and improved for recreational use. These uses may include half-court basketball courts, tennis courts, lawn area for play, picnic tables and a trail constructed to allow for pedestrians and bicycle use. A public parking area for approximately nine cars is proposed at the western end of the parcel. This area is proposed for public use. The proposed uses and types of landscaping material are subject to the review and approval of the City of Milpitas and the San Francisco Public Utilities Commission.
- West Abel Street Public Park: An area of approximately 0.5 acres immediately west of Abel Street and Penitencia Creek is proposed for use as a public park. Used within the park may include tot lots (play structure), picnic benches with trellis structures, turf area for informal play.
- Elm Grove Public Park: This park area will include a tot lot with shade area, benches, turf area for informal play. The historical elements of an existing (but dying) elm grove will be retained by replanting elms (or other acceptable trees) in a pattern representative to the existing trees. The replanted elm grove will extend across the existing tree pattern from Main Street to Abel Street.
- Single Family Detached/Townhome Private Recreational Area: This private park area will consist of a spa, swimming pool, community building (that will also house pool maintenance equipment), and a turf area for informal recreational activities. This recreational area is intended to serve residents of both the single family detached homes and the townhomes.



## 5.1 LAND USE

This section describes existing land uses in and surrounding the Project Site, and addresses the related plans and policies governing the Project Site and surrounding areas. This section also examines if the Project could adversely affect the surrounding community or conflict with applicable land use plans. Any mitigation measures necessary to resolve impacts also are discussed.

### 5.1.1 EXISTING CONDITIONS

The Project Site is comprised of surplus lands of the County of Santa Clara that surround the Elmwood Correctional Facility. The Project is located east of Interstate 880 (I-880), south of Sylvia Avenue, on both sides of Abel Street, and north of Great Mall Parkway in the City of Milpitas. Currently, the site is part of a single approximately 126.-acre parcel, which consists of the 66.92 acre Correctional Facility and the approximately 60 acres of surplus land.

#### Existing Land Uses

The L-shaped, western portion of the Project Site consists of disked, fallow land and a former golf course driving range/miniature golf course. There is a drainage ditch along the northern boundary of the site, leading to Penitencia Creek from the abandoned golf course driving range. The man-made channel of Penitencia Creek runs along the west side of Abel Street. The eastern 9.64-acre portion of the site is undeveloped and has been disked. The O'Toole Elms, a double row of American Elms, run through the middle of the eastern portion of the Project Site and link Main Street and Abel Street.

#### Surrounding Land Uses

As discussed in Section 3.3 of the DEIR, above, the Project Site forms an upside-down U-shape around the Elmwood Correctional Facility. Encompassing 66.92-acres and housing approximately 3,100 inmates, the Elmwood Correctional Facility is the predominant land use around the Project Site. Other existing land uses in close proximity to the Project Site include: commercial/industrial, single family residential, and the temporary Milpitas Senior Center to the north; the Great Mall Parkway, light rail line, and single family residential uses to the south; I-880 and then regional commercial uses to the west; and commercial/retail businesses to the east.

#### Agricultural Land

According to the Santa Clara County Important Farmland 2002 map, the Project Site is designated as Prime Farmland, Urban and Built-up Land, and Other Land. The east corner of the Project Site, just east of I-880 and north of the Correctional Facility is designated as Prime Farmland. Prime Farmland is land with the best combination of physical and chemical characteristics able to sustain long term production of agricultural crops. This land must have been used for production of irrigated crops at some time during



## Zoning Designations

The City of Milpitas Zoning Map designations for the Project Site are similar to the designations provided by both the Specific Plan and General Plan. The Zoning Map designations include: C-2 General Commercial, POS-Public Open Space, and R3 Multifamily High Density.

### 5.1.2 THRESHOLDS OF SIGNIFICANCE

Project impacts relative to land use are considered significant based on CEQA Guidelines. These include the following criteria:

- Conflicts with applicable land use plans and policies.
- Conversion of Prime Farmland to non-agricultural use.
- Potential division of an established community.

### 5.1.3 PROJECT IMPACTS

The Project proposes to subdivide the approximately 126-acre County-owned site into numerous parcels. The existing Elmwood Correctional Facility property would encompass one 66.92-acre parcel. This parcel would remain a County owned correctional facility. No other changes to the Correctional Facility are proposed through the Project. The other remaining parcels would comprise the approximately 60 acre Project Site. (Reference Figure 8, *Proposed Project Parcelization by Use*.)

As discussed in Section 4.2 of the DEIR, the Project consists of the following components. (Reference Figure 8, *Project Land Use Map*.):

#### Residential Component:

- 315 podium condos east of Abel Street, 85 of which will be available for-sale to qualified moderate-income households;
- 165 single family detached homes and
- 203 Townhomes north of the Elmwood Correctional Facility, 25 of which will be available for sale to qualified moderate income households.

#### Commercial Component

- Approximately 3 auto dealerships, with an estimated 180,000 square feet of auto mall building area

#### Open Space Component

- Approximately seven acres of public park, including the Hetch Hetchy park/trail improvements , Elmwood Park and West Abel Street Public Park

3.7 Integrate affordable units within market-rate developments.	3.21 response-The Project will, designate 23.5 acres as general commercial consistent with the Specific Plan definition.	-Yes
3.21 Designate surplus land adjacent to the Elmwood Rehabilitation Center for general commercial uses.	3.23 response-The Project provides public parks and open space conceptually consistent with the Specific Plan.	-Yes
3.23 Require public parks and open space as conceptually located in the Specific Plan.	3.24 response- The Project provides 17 acres of public park, usable private open, and common open space area, which exceed the Specific Plan requirements (reference Section 5.12 of this DEIR.)	Yes
3.24 Require new residential development to provide public parks at a ration of 3.5 acres per 1,000 persons, of which up to 1.5 acres per 1,000 persons can be developed as private or common open space.	3.25 response-The Project proposes to improve the Hetch Hetchy right-of-way with a linear park and trail.	-Yes
3.25 Credit improved linear parks on property owned by public and quasi-public agencies (e.g. Santa Clara Valley Flood Control District) as public parks.	3.28 response- The Project proposes Elmwood Park, consisting of at least 1.5 acres and planting replacement trees to recall the O'Toole Elms.	-Yes
3.28 Establish a minimum 2-acre park in association with the O'Toole Elm alley.	3.29 response-The Project proposes to improve the Hetch Hetchy right-of-way with park and trail.	-Yes
3.29 Designate the Hetch Hetchy right-of-way in the Midtown Area park and recreation.	3.30 response-The Project proposes 17 acres of public park, usable private open, and common open space area, which complies with the intent of this policy.	-Yes
3.30 Encourage a 10-acre site to be developed as a park and recreation, located adjacent to Penitencia Creek.		-Yes

The Specific Plan is an implementation measure of the General Plan; and the Zoning Code that promulgates land uses consistent with both the Specific Plan and General Plan. By



# MILPITAS MIDTOWN SPECIFIC PLAN

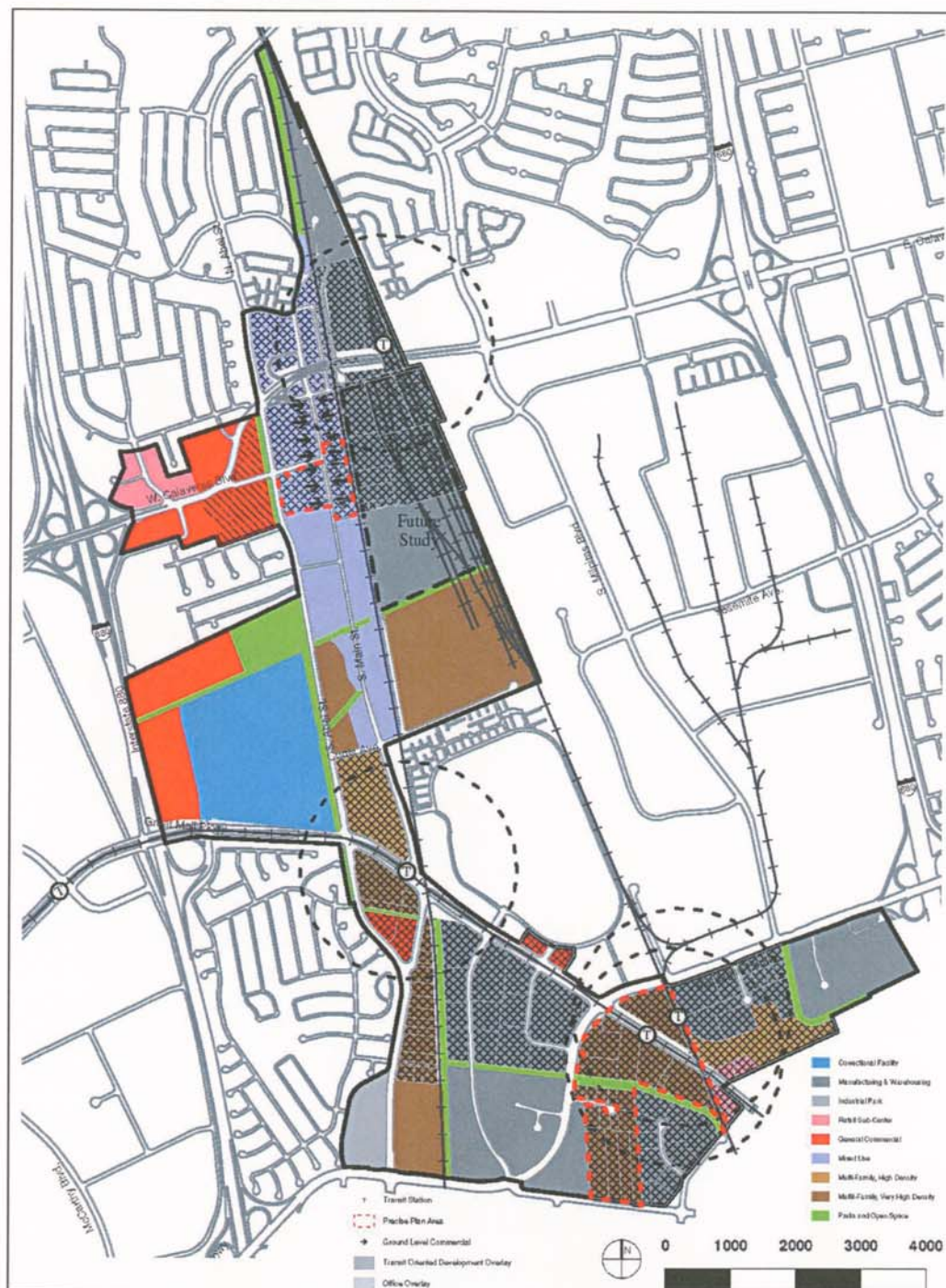


Figure 6 Midtown Specific Plan Land Use

July 2003



## 5.7 FLOODING, DRAINAGE AND WATER QUALITY

This section of the EIR discusses the existing flooding, drainage and water quality conditions in and around the Project Site, and summarizes how Project development would be impacted by these hydrologic conditions. Any mitigation measures necessary to resolve impacts also are discussed.

The discussion of flooding, drainage and water quality is primarily based on the *Elmwood Development/Lower Penitencia Creek Floodplain Impact*, by Schaaf and Wheeler, dated June 8, 2004. A copy of this report is presented in Appendix J of this DEIR.

### 5.7.1 EXISTING CONDITIONS

The Project Site is adjacent to Lower Penitencia Creek, which consists of approximately 4 miles of channel within the City of Milpitas and drains an area of about 27 square miles at the I-880 crossing. Eight existing outfalls to Lower Penitencia Creek as well three other City underground storm drain piping systems serve the site.

Many existing bridges, crossing from Abel Street over Lower Penitencia Creek, exist in the vicinity of the Project site. Two bridges, immediately upstream of the Project site serve as entrances to the existing Elmwood Correctional Facility. The northerly bridge is accompanied by an access road that extends westerly to the proposed commercial site.

A strip parcel of land owned by the City of San Francisco that contains Hetch Hetchy water transmission lines (or aqueducts) borders the Project Site. This strip of land runs east-to-west and relates to the Project Site as follows: east of Abel Street, the Hetch Hetchy strip borders the north Project boundary; west of Abel Street at the proposed residential area, the parcel borders the south Project boundary; and at the proposed commercial area, the parcel bisects the site.

At the south end of the commercial site, between the Correctional Facility and I-880, existing, large box culverts connect this site, hydraulically, with the areas south of Great Mall Parkway. These large, box culvert systems, which were installed under Great Mall Parkway and under the Correctional Facility access road, are for the purpose of conveying the 100-year sheet flows from lands to the south onto the Project Site. No conventional storm drain piping systems are connected to these culverts; they are for the sole purpose of passing the large, 100-year sheet flows.

#### FEMA FIRM Map Designation

The proposed Project Site is in FIRM Panel 3 of 4 for the City of Milpitas. The Federal Emergency Management Agency (FEMA) 1998 FIRM, designated as "060344 003G," shows the site east of Abel Street as having a 200-foot zone of sheet flow flooding 1 foot deep. The remainder of the site is shown as subject to sheet flow flooding to a depth of 2 feet. (Reference Figure 14, FIRM Panel 3 of 4 for the City of Milpitas.)

## **Flooding**

Major portions of the proposed Elmwood Project Site are in the 100-year floodplain as defined by FEMA (Federal Emergency Management Agency). Upper Penitencia Creek in San Jose and Berryessa Creek in Milpitas are the primary sources of flood waters in the local area. Flood waters travel in a downstream direction and co-mingle in the vicinity of the proposed project.

### ***Overflow from East of Abel***

East of Abel, the sheet flow crosses the Project Site in a swatch approximately 200 feet wide, 1 foot deep, with a discharge of 370 cubic feet per second (cfs). This sheet flow then exits onto Abel Street and flows north toward Calaveras Boulevard. Portions flow off toward the west at openings such as intersections, bridges, etc. Future development in this area of the Project site will need to accommodate an addition 100 cfs from this source. (Reference Figure 15, *Existing Project Area Drainage Patterns*.)

### ***Overflow from the South***

The 100-year sheet flows from the areas south of the Project Site enter the site through the large box culvert systems under Great Mall Parkway and the Correctional Facility access road. These flood waters, totaling 1,200 cfs, flow northerly through the proposed commercial area onto the existing developed areas to the north.

These overflows exit the area of the commercial site at its northern boundary, against the backwater from the northerly floodplain. While this northerly floodplain is not a source of flooding for the Project Site, its resulting backwater represents a constraint to the site's development.

### ***Existing Flood Control System Deficiency - Lower Penitencia Creek***

Between the northern Project boundary and the existing northern Correctional Facility entrance bridge, the Lower Penitencia Creek west levee system does not meet FEMA freeboard standards, and consequently does not provide adequate flood protection. Consequently, the existing condition must consider the levee as "removed," or nonexistent. Without the levee, approximately 100 cfs would overflow the west creek bank onto the Project Site.

### ***Flooding Impact East of Abel***

The existing deficiencies of the Lower Penitencia Creek levee would cause the 100 cfs of flood water to fill the portion of the Project Site, west of Abel Street. This condition represents a constraint to development of the site west of Abel Street.



### ***East of Abel***

Development of this portion of the Project Site will include a park, constructed in the path of the existing sheet flow. The park will be constructed largely of permeable materials, resulting in no net increase in sheet flow volumes. Adjoining the park will be parking lots which will be able to contain flood flows should overflow from the park occur.

The balance of this portion of the Project Site will be developed with high density residential use. This development will consist of grading the site and installation of buildings, paved areas and landscaping. The residential living areas will be designed to be a minimum of 1 foot above the 100-Year Base Flood Elevation. This design will accommodate the existing sheet flows, allowing them to move through the site and discharge in approximately the same location as shown on the FIRM.

### ***Overflow from the South***

Development of the commercial area will grade the site and install buildings, paved areas and landscaping. The design will accommodate the 100-year sheet flows that enter the commercial site from the areas south of the Project through the large box culvert systems under Great America Parkway and the Correctional Facility access road. The commercial area will be designed to provide flowage area in the form of parking lots, open space, travel lanes, etc. allowing the 1,200 cfs to flow northerly through the proposed commercial area onto the existing developed areas to the north, as shown on the FIRM (reference Figure 14). The commercial site will construct buildings to be a minimum of 1 foot above the 100-Year Base Flood Elevation.

After development of the commercial and residential sites west of Abel Street, flooding could go onto Elmwood Correctional Facility. The Project proposes to provide mass fill along portions of the north-south access road and to connect those mass fill areas with additional mass fill that would connect to the high ground of the proposed housing area. These mass fill areas would prevent the 1,200 cfs overflow from leaving the commercial site. These waters would be directed to the same locations in the developed area immediately to the north that are presently the conduits of these 100-year flood waters. A series of berms along the openings between the I-880 freeway and the existing commercial buildings, between the existing commercial buildings and between the commercial buildings and the existing residential area would keep the discharges the same as they are today along all flow paths to the north.

### ***West of Abel***

Development of the medium density residential uses proposed west of Abel Street will grade the site and install buildings, paved areas and landscaping. The residential living areas will be designed to be a minimum of 1 foot above the Base Flood Elevation (BFE). The mass fill is proposed to be extended the length of the westerly side of Lower Penitencia Creek along the Project boundary. It is also proposed to extend this mass fill across the Hetch Hetchy right-of-way to Lower Penitencia Creek. This mass fill would prevent the need to assume "removal" of the westerly levee, because FEMA criteria for protection



provided by mass fill do not require the three feet of freeboard as do levee protection systems.

The northerly access road to the Elmwood Correctional Facility would be raised so that any floodwaters that cross from Abel Street to the west would be trapped in a “bowl-shaped” section of ground bounded by high ground all around. This grading on the Elmwood Correctional Facility site would impact only roads and parking lots. This grading would prevent the overflow from Abel Street sheetflow from entering the Project site.

### **Lower Penitencia Creek Improvements**

To provide for traffic flow, the Project proposes to construct a new bridge that would cross the Lower Penitencia Creek between the existing Sylvia Avenue crossing and the northerly Elmwood crossing. The new bridge would be designed to minimize the impact to upstream reaches of Lower Penitencia Creek during a 100-year flood flow of 1,200 cfs – a discharge that represent existing conditions.

The impact of the new bridge was found to be an increase of 0.2 foot in water surface elevation during the existing conditions 100-year flood. To completely mitigate this impact, it is proposed to attach a 0.2-foot diameter metal rail to the top of the flood wall upstream of the new bridge. This railing would extend to approximately 50 feet upstream of the northerly Elmwood entrance crossing. Upstream of this point, the impacts of the new bridge are not significant. On the westerly side of the channel, the levee would be raised by 0.2 foot using fill. Here the levee would be raised upstream of the northerly Elmwood entrance crossing to a point approximately 50 feet upstream.

Design of the bridge and levee improvements are have yet to be finalized. Mitigation will be added to the Project to require that the bridge improvement is done to SCVWD’s acceptance.

### **Site Drainage System**

#### ***New Onsite Facilities***

Proposed onsite drainage facilities including catch basins, field inlets, and underground piping systems will be installed and connected to the existing city piping systems serving the site. (Reference Figure 16 & 16.1, *Proposed Drainage*.)

#### ***Connections to Offsite Facilities***

The existing piping and outfall system, described above, will be utilized by the Project. One new outfall will be installed as part of the Project in order to direct storm water from the commercial area to Lower Penitencia Creek. This proposed outfall will be located near the existing road immediately north of the Elmwood Correctional Facility. An alternative to a new outfall would be to secure an easement from the commercial area through the Elmwood Correctional Facility and then connecting to an existing outfall approximately 850 feet south of the proposed outfall which would then not be built.

*upstream of the new bridge. This railing would extend to approximately 50 feet upstream of the northerly Elmwood entrance crossing. Upstream of this point, the impacts of the new bridge are not significant. On the westerly side of the channel, the levee would be raised by 0.2 foot using fill. Here the levee would be raised upstream of the northerly Elmwood entrance crossing to a point approximately 50 feet upstream.*

Design of the bridge and levee improvements are have yet to be finalized. ~~Mitigation will be added to the Project to require that bridge and levee improvements are designed to meet SCVWD and FEMA standards.~~*Mitigation will be added to the Project to require that the bridge improvement is done to SCVWD's acceptance.*

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the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods.

### **5.8.5. SIGNIFICANCE AFTER MITIGATION**

Mitigation Measure CUL-1 is expected to reduce adverse significant impacts from the Project relative to cultural resources to less than significant levels.

## **5.9 HAZARDS**

This section addresses issues related to hazards in and adjacent to the Project Site, including hazardous substances and potential health hazards. Hazardous conditions currently found within the Project Site and surrounds, potential Project impacts related to hazards, and any mitigation measures necessary to resolve impacts are discussed.

The following discussion is based on a Phase I Environmental Site Assessment (ESA) by URS Corporation in August 2002 and a soil assessment by Aqua Science Engineers, Inc. in September 2003. The Phase I ESA was conducted to determine the presence of recognized environmental conditions, primarily resulting from releases of hazardous materials or the presence of hazardous substances in soil and/or groundwater at or near the Project site that could impact the Project. The purpose of the soil assessment was to determine if imported soil that was stockpiled on the subject site (used for the configuration of a golf driving range) contained any chemicals of concern that may substantially affect the use of the property for residential and commercial development. Complete reports are provided in Appendices M-N of this DEIR.

### **5.9.1 EXISTING CONDITIONS**

Hazardous materials are commonly used by large institutions, commercial and industrial businesses. Hazardous materials also include a broad range of common substances such as motor oil and fuel, pesticides, detergents, paint, and solvents. A substance may be considered hazardous if, due to its chemical and/or physical properties, it poses a substantial hazard when it is improperly treated, stored, transported, disposed of, or released into the atmosphere in the event of an accident.

The Project Site consists of multiple parcels, totaling approximately 60 acres, generally along Abel Street adjacent to the Elmwood Correctional Facility. The Project Site is located on relatively flat land and is situated within a fully developed area consisting of roadways, commercial buildings, government facilities, and residential properties.

Another 15" sanitary sewer line flows across the western portion of the Project Site from south to north. This line crosses the Hetch Hetchy via a siphon and can overflow into the branches off the 30" sanitary sewer running east to west (described above) at point approximately 1,400' west of Abel Street. The 15" sanitary sewer flows north and leaves the Project Site through the industrial park north of the Project Site.

## **Solid Waste**

Solid waste and recycling collection services for the City of Milpitas are provided by BFI. Refuse from the City is disposed of at the Newby Island Landfill, operated by BFI and located on Dixon Landing Road in San José. It is a Class III landfill, with an estimated life-span of approximately 20 years. The incremental growth anticipated by the Specific Plan would not substantially shorten this life-span as it is consistent with the growth that has been anticipated by BFI in their life-span projections. Thus, the solid waste disposal needs of the Midtown Area would be accommodated for the foreseeable future.

## **Electricity, Gas, and Telephone**

### ***Electrical Service***

Pacific Gas and Electric Company (PG&E) provides electrical service to the Midtown Area. PG&E transmits electrical power through substations located at the southern end of the Midtown Area. The primary circuits are 21 kilovolts (kV) and mostly located underground. The existing substation capacity is adequate for the various estimated loads based on land usage.

### ***Natural Gas***

PG&E also provides natural gas service to the Midtown Area. Two 20-inch transmission lines within Capitol Expressway connect with eight-inch, six-inch, and smaller mains to provide natural gas to the area. The distribution to existing customers is via two-inch and 1.5-inch lines. Natural gas service can be provided to new land uses.

### ***Telecommunications***

American Telephone and Telegraph (AT&T) and SBC provide local telephone, cable TV and internet services to the Midtown Area via overhead and underground facilities.



### 5.11.2 THRESHOLDS OF SIGNIFICANCE

In accordance with CEQA Guidelines, a utility impact is considered significant if the Project will:

- Not have sufficient water supplies;
- Not have sufficient wastewater capacity.
- Require or result in the construction of new water or wastewater treatment facilities;
- Not be served by a landfill with sufficient permitted capacity;
- Not comply with federal, state, and local statutes and regulations related to solid waste?

### 5.11.3 PUBLIC UTILITIES IMPACTS

#### Water Service

#### Proposed Project Facilities

The proposed Project water facilities can be broken down into three components.

- In the podium residential area east of Abel Street, an 8" water line will connect to an existing 14" SCVWD water line along Abel near the northern property line. The proposed on-site 8" water line will loop around the two northern podium buildings and connect to a 14" SCVWD water line in Abel Street supplied with SCVWD water. The second on-site connection would be a connection to the same 14" SCVWD water line in Abel Street mentioned above, and loop around the second building and connect to an existing 18" SCVWD water line supplied with SCVWD water in Curtis Avenue.
- In the residential areas west of Abel Street and north of the Elmwood Rehabilitation Facility, each residential unit will connect to an 8" water line located in the interior north-south driveways. Each 8" water line will also loop around the southern end of the driveway circulation system. These 8" water lines will connect to a 12" water line located within the interior northern driveway. These 12" water lines will then connect to a 12" water line within the northern exterior roadway. The eastern end of this 12" water line will connect to an existing 14" SCVWD water line in Abel Street. The western end of this 8" water line will connect to a new 12" water line that will be constructed within the roadway of the western north-south road. The northern end of this 8" water line will connect to an existing 16" water line located at the southern end of the existing industrial park to the north.

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- In the residential areas west of Abel Street and north of the Elmwood Rehabilitation Facility, each residential unit will connect to an 8" water line located in the interior north-south driveways. Each 8" water line will also loop around the southern end of the driveway circulation system. These 8" water lines will connect to a 12" water line located within the interior northern driveway. These 12" water lines will then connect to a 12" water line within the northern exterior roadway. The eastern end of this 12" water line will connect to an existing 14" SCVWD water line in Abel Street. The western end of this 8" water line will connect to a new 12" water line that will be constructed within the roadway of the western north-south road. The northern end of this 8" water line will connect to an existing 16" water line located at the southern end of the existing industrial park to the north.



- In the commercial area located west of the existing Elmwood Rehabilitation Center and east of and parallel to Interstate 880, a new 12" water main will be constructed paralleling the existing north-south jail road and in the proposed cul-de-sac crossing the Hetch Hetchy parcel. This new 12" water line will connect to the existing 16" water main to the north and to the existing 14" City main in Great Mall Parkway

City development policies will require each developer within the Project Site to design and install all water mains in accordance with the City's Water Master Plan. In addition, each developer is required to pay all water related fees including connection fees and treatment plant fees. Developer may receive reimbursement for excess cost under certain circumstances.

### Project Water Impacts

Using criteria established by the City's Water Master Plan, the proposed Project would generate total base water demand of approximately 205,000 gpd. This is 47,000 gallons per day above the water master plan BWF as shown in the table below.

Table 13  
Additional Water Capacity Needs Above Master Plan Amounts

Land Use Code	Proposed BWF (gpd)	Master Plan BWF (gpd)	Additional BWF (gpd)
MFVH	79,704	91,600	(11,896)
MFH	98,040	59,700	38,340
CML	27,240	6,800	20,400
Total	204,984	158,100	46,884

Mitigation Measures UTL-1 and UTL-2, below, are added to the Project to address these sewage capacity impacts.

### Recycled Water

There is an existing recycled water line within the County roadway immediately south of the Hetch Hetchy parcel. This line will be utilized to supply recycled water to the recreational area within the SFD/townhome project, the park within the Hetch Hetchy parcel and the park area that lies to the west of Abel Street and north of the Hetch Hetchy parcel. The recycled line runs eastward to Abel Street and turns south to Curtis Avenue. The proposed park located to the east of Abel Street will also be served by recycled water.

## Sanitary Sewer

### Proposed Project Facilities

The proposed Project sanitary sewer facilities can be broken down into three components.

- In the podium residential area east of Abel Street, two sanitary sewer connections are proposed. The first connection will be a 6" connection at the entrance between the two northern podium buildings out to Abel Street, connecting to an existing 15" sanitary sewer line. The second connection would be at Abel Street, which will also be a 6" connection to an existing 15" sanitary sewer line in Abel Street.
- In the residential areas west of Abel Street and north of the Elmwood Rehabilitation Facility, each residential unit will connect to a 6" sewer line located in the driveways that run north-south. These lines will connect to an 8" sanitary sewer line located within the interior northern driveway. This 8" sanitary sewer line will connect to an existing 15" sanitary sewer line located approximately 1400' west of Abel Street.
- In the commercial area located west of the existing Elmwood Rehabilitation Facility and east of and parallel to Interstate 880, new commercial development north of the Hetch Hetchy will construct an 8" sanitary sewer line to and within the north-south frontage road. This 8" sanitary sewer line will flow north and then east and connect to the existing 15" sanitary sewer line. Commercial development south of the Hetch Hetchy will construct an 8" sanitary sewer line to and within the north-south frontage road. This 8" sanitary sewer line will flow north and then east within the east-west road south of the Hetch Hetchy, and connect to the existing 15" sanitary sewer line. (note to author: the city minimum sewer diameter for commercial areas is 8")

### Project Sewer Impacts

Total base wastewater flow (BWF) for the Project is approximately 176,000 gallons per day. This is 62,000 gallons per day above the sewer master plan BWF as shown in the table below.

Table 14  
Additional Sewage Capacity Needs Above Master Plan Amounts

Land Use Code	Proposed BWF (gpd)	Master Plan BWF (gpd)	Additional BWF (gpd)
MFVH	76,590	86,500	(9,910)
MFH	89,460	24,900	64,560
CML	11,350	2,800	8,550
Total	176,400	114,200	62,200



## Sanitary Sewer

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- In the residential areas west of Abel Street and north of the Elmwood Rehabilitation Facility, each residential unit will connect to a 6" sewer line located in the driveways that run north-south. These lines will connect to an 8" sanitary sewer line located within the interior northern driveway. This 8" sanitary sewer line will connect to an existing 15" sanitary sewer line located approximately 1400' west of Abel Street.
- In the commercial area located west of the existing Elmwood Rehabilitation Facility and east of and parallel to Interstate 880, new commercial development north of the Hetch Hetchy will construct a 6" sanitary sewer line to and within the north-south frontage road. This 6" sanitary sewer line will flow north and then east and connect to the existing 15" sanitary sewer line. Commercial development south of the Hetch Hetchy will construct a 6" sanitary sewer line to and within the north-south frontage road. This 6" sanitary sewer line will flow north and then east within the east-west road south of the Hetch Hetchy, and connect to the existing 15" sanitary sewer line. (note to author: the city minimum sewer diameter for commercial areas is 8")

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MFH	89,460	24,900	64,560
CML	11,350	2,800	8,550
Total	176,400	114,200	62,200

<b>TABLE 17: LOCAL SCHOOLS IN PROJECT AREA, THEIR CAPACITY AND CURRENT ENROLLMENT</b>		
<b>Local School</b>	<b>Local School Capacity</b>	<b>2004 Enrollment</b>
Zanker (Pearl) Elementary School	450	425
Rancho Middle School	780	704
Milpitas High School	3,000	2,629

California law allows the governing body of a school district to impose a fee on all new development within the district's jurisdiction for the purpose of funding the construction or reconstruction of school facilities. These fees are intended to mitigate the school cost associated with new development. Currently, MUSD collects school impact fees for new development to the maximum extent allowable under State law.

The Project is not expected to adversely affect school facilities or service ratios or other performance objectives.

### **Parks**

The Midtown Area, where higher density residential development is proposed, is required to provide public parkland at a ratio of 3.5 acres per 1,000 residents. Up to 1.5 acres per 1,000 residents can be developed as usable on-site common or private open space within new residential developments. The remaining two acres per 1,000 must be developed as public parkland.

Based on City calculations for parkland, , the Project would require 7.7 acres of parks/open space. Of this requirement, the Project must provide at least 4 acres of public parkland, and may provide up to 3.3 acres of usable on-site common or private open space.

The Project includes both private and public open space and park elements. It proposes approximately 7 acres of public parks and trails, 1 acre of private, and 9 acres of common open space. (Reference Table 1, Elmwood Residential and Commercial Development Land Use Summary.) In total, the Project would provide 17 acres of public park, usable private open, and common open space area. These acreages exceed the minimum requirements established by the City's Midtown policies. The Project is not expected to adversely affect park facilities or service ratios.



	Specific Plan.			
3.24 - Require new residential development to provide public parks at a ration of 3.5 acres per 1,000 persons, of which up to 1.5 acres per 1,000 persons can be developed as private or common open space.	The Project provides 17 acres of public park, usable private open, and common open space area, which exceed the Specific Plan requirements (reference Section 5.12 of this DEIR.)	Yes	No	Yes
3.25 - Credit improved linear parks on property owned by public and quasi-public agencies (e.g. Santa Clara Valley Flood Control District) as public parks.	The Project proposes to improve the Hetch Hetchy right-of-way with a linear park and trail.	Yes	No	Yes
3.28 - Establish a minimum 1.5-acre park in association with the O'Toole Elm alley	The Project proposes Elmwood Park, consisting of at least 1.5 acres and planting replacement trees to recall the O'Toole Elms.	Yes	No	Yes
3.29 - Designate the Hetch Hetchy right-of-way in the Midtown Area park and recreation.	The Project proposes to improve the Hetch Hetchy right-of-way with park and trail.	Yes	No	Yes
3.30 - Encourage a 10-acre site to be developed as a park and recreation, located adjacent to Penitencia Creek.	The Project proposes 17 acres of public park, usable private open, and common open space area, which complies with the intent of this policy.	Yes	No	Yes

Finally, the No-Project alternative would not achieve the basic Project objective to develop the County surplus lands community supportive and revenue generating land uses . Although this alternative would result in fewer development related impacts than the Project, potential public nuisance issues could arise by allowing existing site hazards to remain., It would conflict with Specific Plan policies that designate the site for development. The No-Project Alternative would not be superior to the Project.